
TITLE 326 AIR POLLUTION CONTROL BOARD

FIRST NOTICE OF COMMENT PERIOD

LSA Document #11-774

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING ATTAINMENT OF THE LEAD NATIONAL AMBIENT AIR QUALITY STANDARDS**PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 1-4](#), [326 IAC 15](#), and [326 IAC 20-13](#) concerning attainment of the lead national ambient air quality standards (NAAQS). IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

CITATIONS AFFECTED: [326 IAC 1-4](#); [326 IAC 15](#); [326 IAC 20-13](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-14](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**Basic Purpose and Background**

The Clean Air Act (CAA) requires the United States Environmental Protection Agency (U.S. EPA) to set primary and secondary National Ambient Air Quality Standards (NAAQS) for the six common air pollutants considered harmful to public health and the environment, including lead, ground-level ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, and particulate matter. For each of these pollutants, the CAA requires U.S. EPA to set primary standards at a level judged to be "requisite to protect the public health with an adequate margin of safety", and establish secondary standards that are requisite to protect public welfare from "any known or anticipated effects associated with the pollutant in the ambient air", including effects on crops, vegetation, wildlife, buildings and national monuments, and visibility.

The CAA requires U.S. EPA to review these standards once every five years to determine whether revisions to the NAAQS are appropriate. In 2008, U.S. EPA issued revised primary and secondary NAAQS for lead in the November 12, 2008, Federal Register (FR), published at 73 FR 66964. The revised NAAQS was strengthened by a factor of 10, from 1.5 µg/m³ using a quarterly average, to 0.15 µg/m³ using a rolling three month average. IDEM amended [326 IAC 1-3-4](#) in 2010 to incorporate the revised primary and secondary standards into the state rule.

Lead exposure can cause a range of adverse health effects, most notably in children. Exposures to low levels of lead early in life have been linked to effects on intelligence quotient scores, learning, memory, and behavior. The stronger standard provides increased protection against adverse health effects associated with exposure to lead in at-risk groups, including children. To provide increased protection against lead-related environmental and other welfare effects, U.S. EPA revised the secondary lead NAAQS to be identical to the revised primary standard. U.S. EPA also determined that the preexisting ambient lead monitoring network was inadequate for determining whether many areas were meeting the revised lead standards. U.S. EPA established new criteria for siting ambient lead monitors and new data collection requirements that were implemented in 2010.

The CAA requires U.S. EPA to complete the initial process of identifying or designating areas that meet or do not meet the NAAQS within two years. If the administrator of U.S. EPA has insufficient information to make these designations, U.S. EPA has the authority to extend the designation process by up to one year. Due to a newly developed monitoring network, U.S. EPA completed its designation process in two rounds. The first round, published on November 22, 2010, at 75 FR 71033, designated 16 areas, including a portion of Muncie, Indiana, as "nonattainment", meaning these areas violated the 2008 lead NAAQS based on data from the monitoring network in place prior to 2010. U.S. EPA extended the deadline for designations for all other areas by one year and completed the second round of lead designations in October 2011. For areas designated nonattainment in 2010, states must develop a state implementation plan (SIP) that meets the requirements of the CAA. The SIPs must be submitted to U.S. EPA by June 30, 2012. The nonattainment areas must attain the lead NAAQS by December 31, 2015.

On June 15, 2011, U.S. EPA indicated to IDEM that it had made a preliminary decision to designate all areas of Indiana, except for a nonattainment area in Muncie, as unclassifiable/attainment for the revised lead standards. U.S. EPA's preliminary decision was based on consideration of Indiana's designation recommendation letter and associated technical information, including the most recent air quality data from 2008 through 2010. This rulemaking will amend attainment classifications at [326 IAC 1-4](#) to reflect U.S. EPA's preliminary unclassifiable/attainment designations in Indiana. This rulemaking will also amend lead emission limitations at [326 IAC 15](#), and emission standards for secondary lead smelters at [326 IAC 20-13](#) to include SIP development requirements for the Muncie nonattainment area, and make any necessary changes to address the upcoming federal revisions to the national emission standards for hazardous air pollutants (NESHAP) for secondary lead

smelters at 40 CFR 63, Subpart X. Finally, this rulemaking will update [326 IAC 15](#) because several of the sources listed are no longer operating.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend/add attainment classifications, lead emission limitations, and emission standards for secondary lead smelters as needed to address the revised primary and secondary lead NAAQS, and the revised NESHAP for secondary lead smelters.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? Yes.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Do not amend [326 IAC 1-4](#), [326 IAC 15](#), or [326 IAC 20-13](#).

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. This alternative would be different from federal law because it would not allow the state to amend [326 IAC 1-4](#), [326 IAC 15](#), or [326 IAC 20-13](#) as needed to comply with federal law.

Applicable Federal Law

The revised primary and secondary NAAQS for lead published on November 12, 2008, at 73 FR 66964, and any additional implementation guidance developed by U.S. EPA will be used to develop applicable amendments to attainment designations, lead emission limitations, and emission standards for secondary lead smelters. Additionally, the revisions U.S. EPA makes to the secondary lead smelter NESHAP at 40 CFR 63, Subpart X prior to final adoption of this rule will also be included for consistency with federal requirements.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. There is no fiscal impact as this rulemaking will adopt requirements already imposed under federal law. At this time, IDEM cannot quantify the costs to the regulated community that may result from the federal rulemaking. As lead emission limitations and emission standards for secondary lead smelters are developed, IDEM will evaluate the costs of the proposed requirements. Affected sources may need to install additional air pollution control devices to meet the requirements proposed.

Potential Fiscal Impact of Alternative 2. There is no fiscal impact associated with this alternative. IDEM is required by federal law to address the revised lead standard.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), the Small Business Regulatory Coordinator for this rule is:

Alison Beumer
IDEM Small Business Regulatory Coordinator
MC 60-04 IGCS W041
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Eric P. Shields
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 234-3997
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1301

100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
bbaughn@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Ryan Knapick, Rule and State Implementation Plan Development Section, Office of Air Quality at (317) 232-8229 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #11-774 Lead Standard Attainment
Ryan Knapick Mail Code 61-50
Rule and State Implementation Plan Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5967. Please confirm the timely receipt of faxed comments by calling the Rule and State Implementation Plan Development Section at (317) 234-6530.

- (3) By electronic mail to rknepick@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the email address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped no later than January 27, 2012. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Ryan Knapick, Rule and State Implementation Plan Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).

Scott Deloney, Chief
Air Programs Branch
Office of Air Quality

Posted: 12/28/2011 by Legislative Services Agency
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